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Editorial Notes

AMENDMENTS

2021—Pub. L. 117–58, div. B, title V, §25008(b), Nov. 15, 2021, 135 Stat. 852, which directed amendment of the analysis for subchapter I of this chapter by adding item 313 at the end, was executed by adding item 313 to the analysis for this chapter, to reflect the probable intent of Congress.

Pub. L. 117–58, div. B, title IV, §24111(b), Nov. 15, 2021, 135 Stat. 815, which directed amendment of the analysis for subchapter III of this chapter by adding item 355 at the end, was executed by adding item 355 to the analysis for this chapter, to reflect the probable intent of Congress.

2018—Pub. L. 115–282, title V, §514(c), Dec. 4, 2018, 132 Stat. 4278, which directed amendment of the analysis for this chapter by adding item 312 at the end, was executed by adding item 312 at the end of the item for subchapter I, to reflect the probable intent of Congress.

2016—Pub. L. 114–322, title IV, §5001(b), Dec. 16, 2016, 130 Stat. 1885, added item 311.

2015—Pub. L. 114–94, div. A, title I, §§1311(b), 1312(b), 1313(b), title VI, §6011(c), Dec. 4, 2015, 129 Stat. 1399, 1400, 1402, 1569, added items 304a, 307, and 310 and substituted “Research activities” for “Research contracts” in item 330.

Pub. L. 114–94, div. A, title I, §1446(d)(4), Dec. 4, 2015, 129 Stat. 1438, amended section 1314(b) of Pub. L. 112–141, effective July 6, 2012, as if included in Pub. L. 112–141 as enacted. See 2012 Amendment note below.

2012—Pub. L. 112–141, div. A, title I, §1314(b), div. C, title II, §32932(a)(2), July 6, 2012, 126 Stat. 549, 829, as amended by Pub. L. 114–94, div. A, title I, §1446(d)(4), Dec. 4, 2015, 129 Stat. 1438, substituted “Application of categorical exclusions for multimodal projects” for “Joint activities with the Secretary of Housing and Urban Development” in item 304 and struck out item 307 “Safety information and intervention in Interstate Commerce Commission proceedings”.

2003—Pub. L. 108–168, §8(b)(2), Dec. 6, 2003, 117 Stat. 2035, added item 354.

1994—Pub. L. 103–272, §4(j)(6)(B), (9)(B), (10)(B), July 5, 1994, 108 Stat. 1366–1368, added item 303a, struck out items 334 “Limit on aviation charges” and 335 “Authorization of appropriations”, and added item 337, subchapter III heading, and items 351 to 353.

1991—Pub. L. 102–240, title I, §1036(c)(2), Dec. 18, 1991, 105 Stat. 1985, added item 309.

1989—Pub. L. 101–225, title III, §305(2), Dec. 12, 1989, 103 Stat. 1925, added item 336.

1984—Pub. L. 98–216, §2(1)(B), Feb. 14, 1984, 98 Stat. 5, substituted “Reports” for “Annual reports” in item 308.

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

(1) under the direction of the President, exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies;

(2) provide leadership in the development of transportation policies and programs, and make recommendations to the President and Congress for their consideration and implementation;

(3) coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States;

(4) promote and undertake the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation;

(5) consult and cooperate with the Secretary of Labor in compiling information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation;

(6) promote and undertake research and development related to transportation, including noise abatement, with particular attention to aircraft noise, and including basic highway vehicle science;

(7) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation system in procuring transportation or in operating their own transport services;

(8) consult and cooperate with State and local governments, carriers, labor, and other interested persons, including, when appropriate, holding informal public hearings; and

(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2418; Pub. L. 102–240, title V, §5002(a), title VI, §6017, Dec. 18, 1991, 105 Stat. 2158, 2183; Pub. L. 105–178, title I, §1504, June 9, 1998, 112 Stat. 251.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
301	49:1653(a).	Oct. 15, 1966, Pub. L. 89–670, §4(a), 80 Stat. 933.

In the introductory clause before “shall”, the words “in carrying out the purposes of this chapter . . . among his responsibilities” are omitted as surplus.

In clause (4), the word “compiling” is substituted for “gathering” for consistency.

Editorial Notes**AMENDMENTS**

1998—Par. (9). Pub. L. 105–178 added par. (9).

1991—Pars. (3) to (5). Pub. L. 102–240, §5002(a), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

Par. (6). Pub. L. 102–240, §§5002(a), 6017, redesignated par. (5) as (6) and inserted “, and including basic highway vehicle science”. Former par. (6) redesignated (7).

Pars. (7), (8). Pub. L. 102–240, §5002(a), redesignated pars. (6) and (7) as (7) and (8), respectively.

Statutory Notes and Related Subsidiaries**GEOMATIC DATA**

Pub. L. 117–58, div. A, title I, §11308, Nov. 15, 2021, 135 Stat. 534, provided that:

“(a) **IN GENERAL.**—The Secretary [of Transportation] shall develop guidance for the acceptance and use of information obtained from a non-Federal entity through geomatic techniques, including remote sensing and land surveying, cartography, geographic information systems, global navigation satellite systems, photogrammetry, or other remote means.

“(b) **CONSIDERATIONS.**—In carrying out this section, the Secretary shall ensure that acceptance or use of information described in subsection (a) meets the data quality and operational requirements of the Secretary.

“(c) **PUBLIC COMMENT.**—Before issuing any final guidance under subsection (a), the Secretary shall provide to the public—

“(1) notice of the proposed guidance; and

“(2) an opportunity to comment on the proposed guidance.

“(d) **SAVINGS CLAUSE.**—Nothing in this section—

“(1) requires the Secretary to accept or use information that the Secretary determines does not meet the guidance developed under this section; or

“(2) changes the current statutory or regulatory requirements of the Department [of Transportation].”

RISK AND SYSTEM RESILIENCE

Pub. L. 117–58, div. B, title V, §25007, Nov. 15, 2021, 135 Stat. 849, provided that:

“(a) **IN GENERAL.**—The Secretary [of Transportation], in consultation with appropriate Federal, State, and local agencies, shall develop a process for quantifying annual risk in order to increase system resilience with respect to the surface transportation system of the United States by measuring—

“(1) resilience to threat probabilities by type of hazard and geographical location;

“(2) resilience to asset vulnerabilities with respect to each applicable threat; and

“(3) anticipated consequences from each applicable threat to each asset.

“(b) **USE BY STATE, REGIONAL, TRIBAL, AND LOCAL ENTITIES.**—

“(1) **IN GENERAL.**—The Secretary shall provide the process developed under subsection (a) to State departments of transportation, metropolitan planning organizations, Indian Tribes, local governments, and other relevant entities.

“(2) **GUIDANCE AND TECHNICAL ASSISTANCE.**—The Secretary shall provide to the entities described in paragraph (1) guidance and technical assistance on the use of the process referred to in that paragraph.

“(c) **RESEARCH.**—

“(1) **IN GENERAL.**—The Secretary shall—

“(A) identify and support fundamental research to develop a framework and quantitative models to support compilation of information for risk-based analysis of transportation assets by standardizing the basis for quantifying annual risk and increasing system resilience; and

“(B) build on existing resilience research, including studies conducted by—

“(i) the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine; and

“(ii) the National Institute of Standards and Technology.

“(2) **USE OF EXISTING FACILITIES.**—In carrying out paragraph (1), the Secretary shall use existing research facilities available to the Secretary, including the Turner–Fairbank Highway Research Center and University Transportation Centers established under section 5505 of title 49, United States Code.”

SAFETY DATA INITIATIVE

Pub. L. 117–58, div. B, title V, §25011, Nov. 15, 2021, 135 Stat. 857, provided that:

“(a) **DEFINITION OF ELIGIBLE ENTITY.**—In this section, the term ‘eligible entity’ means—

“(1) a State;

“(2) a unit of local government;

“(3) a transit agency or authority;

“(4) a metropolitan planning organization;

“(5) any other subdivision of a State or local government;

“(6) an institution of higher education; and

“(7) a multi-State or multijurisdictional group.

“(b) **SAFETY DATA INITIATIVE.**—

“(1) **ESTABLISHMENT.**—The Secretary [of Transportation] shall establish an initiative, to be known as the ‘Safety Data Initiative’, to promote the use of data integration, data visualization, and advanced analytics for surface transportation safety through the development of innovative practices and products for use by Federal, State, and local entities.

“(2) **ACTIVITIES.**—

“(A) **APPLIED RESEARCH.**—

“(i) **IN GENERAL.**—The Secretary shall support and carry out applied research to develop practices and products that will encourage the integration and use of traditional and new sources of safety data and safety information to improve policy and decisionmaking at the Federal, State, and local government levels.

“(ii) **METHODOLOGY.**—In carrying out clause (i), the Secretary may—

“(I) carry out demonstration programs;

“(II) award grants and provide incentives to eligible entities;

“(III) enter into partnerships with—

“(aa) eligible entities;

“(bb) private sector entities; and

“(cc) National Laboratories; and

“(IV) use any other tools, strategies, or methods that will result in the effective use of data and information for safety purposes.

“(B) **TOOLS AND PRACTICES.**—In carrying out subparagraph (A), the Secretary, to the maximum extent practicable, shall—

“(i) develop safety analysis tools for State and local governments, with a particular focus on State and local governments with limited capacity to perform safety analysis;

“(ii)(I) identify innovative State and local government practices;

“(II) incubate those practices for further development; and

“(III) replicate those practices nationwide; and

“(iii) transfer to State and local governments the results of the applied research carried out under that subparagraph.

“(C) **DATA SHARING.**—

“(i) **IN GENERAL.**—To inform the creation of information useful for safety policy and decision-making, the Secretary shall—

“(I) encourage the sharing of data between and among Federal, State, and local transportation agencies; and

“(II) leverage data from private sector entities.

“(ii) **GOALS.**—The goals of the data-sharing activities under clause (i) shall include—

“(I) the creation of data ecosystems to reduce barriers to the efficient integration and analysis of relevant datasets for use by safety professionals; and

“(II) the establishment of procedures adequate to ensure sufficient security, privacy, and confidentiality as needed to promote the sharing of sensitive or proprietary data.

“(iii) MANAGEMENT OF DATA ECOSYSTEMS.—A data ecosystem described in clause (ii)(I) may be managed by—

“(I) the Director of the Bureau of Transportation Statistics;

“(II) 1 or more trusted third parties, as determined by the Secretary; or

“(III) 1 or more other entities or partnerships capable of securing, managing, and analyzing sensitive or proprietary data.

“(3) PLAN.—

“(A) IN GENERAL.—The Safety Data Initiative shall be carried out pursuant to a plan to be jointly established by—

“(i) the Under Secretary of Transportation for Policy;

“(ii) the Chief Information Officer of the Department [of Transportation];

“(iii) the Administrator of the National Highway Traffic Safety Administration;

“(iv) the Administrator of the Federal Highway Administration;

“(v) the Administrator of the Federal Motor Carrier Safety Administration;

“(vi) the Administrator of the Federal Transit Administration; and

“(vii) the Administrator of the Federal Railroad Administration.

“(B) REQUIREMENT.—The plan established under subparagraph (A) shall include details regarding the means by which tools and innovations developed by projects carried out under the Safety Data Initiative will be transferred to the appropriate program of the Department for further implementation.

“(C) DEADLINE.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall direct the officials described in clauses (i) through (vii) of subparagraph (A) to establish, by a date determined by the Secretary, the plan referred to in that subparagraph.

“(4) TERMINATION.—The Safety Data Initiative shall terminate on the later of—

“(A) the date that is 1 year after the date of enactment of this Act; and

“(B) the date on which the Secretary makes the direction to officials described in paragraph (3)(C).”

GAO CYBERSECURITY RECOMMENDATIONS

Pub. L. 117–58, div. B, title V, § 25022, Nov. 15, 2021, 135 Stat. 878, provided that:

“(a) CYBERSECURITY RISK MANAGEMENT.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall implement the recommendation for the Department [of Transportation] made by the Comptroller General of the United States in the report entitled ‘Cybersecurity: Agencies Need to Fully Establish Risk Management Programs and Address Challenges’, numbered GAO–19–384, and dated July 2019—

“(1) by developing a cybersecurity risk management strategy for the systems and information of the Department [of Transportation];

“(2) by updating policies to address an organization-wide risk assessment; and

“(3) by updating the processes for coordination between cybersecurity risk management functions and enterprise risk management functions.

“(b) WORK ROLES.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall implement the recommendation of the Comptroller General of the United States in the report entitled ‘Cybersecurity Workforce: Agencies Need to Accurately Categorize Positions to Effectively Identify Critical Staffing Needs’, numbered GAO–19–144, and dated March 2019, by—

“(1) reviewing positions in the Department; and

“(2) assigning appropriate work roles in accordance with the National Initiative for Cybersecurity Education Cybersecurity Workforce Framework.

“(c) GAO REVIEW.—

“(1) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that examines the approach of the Department to managing cybersecurity for the systems and information of the Department.

“(2) CONTENTS.—The report under paragraph (1) shall include an evaluation of—

“(A) the roles, responsibilities, and reporting relationships of the senior officials of the Department with respect to cybersecurity at the components of the Department;

“(B) the extent to which officials of the Department—

“(i) establish requirements for, share information with, provide resources to, and monitor the performance of managers with respect to cybersecurity within the components of the Department; and

“(ii) hold managers accountable for cybersecurity within the components of the Department; and

“(C) other aspects of cybersecurity, as the Comptroller General of the United States determines to be appropriate.”

PERFORMANCE MEASUREMENT, TRANSPARENCY, AND ACCOUNTABILITY

Pub. L. 117–58, div. B, title VII, § 27001, Nov. 15, 2021, 135 Stat. 884, provided that: “For each grant awarded under this Act [div. B of Pub. L. 117–58, see Tables for classification], or an amendment made by this Act, the Secretary may—

“(1) develop metrics to assess the effectiveness of the activities funded by the grant;

“(2) establish standards for the performance of the activities funded by the grant that are based on the metrics developed under paragraph (1); and

“(3) not later than the date that is 4 years after the date of the initial award of the grant and every 2 years thereafter until the date on which Federal financial assistance is discontinued for the applicable activity, conduct an assessment of the activity funded by the grant to confirm whether the performance is meeting the standards for performance established under paragraph (2).”

NATIONAL ADVISORY COMMITTEE ON TRAVEL AND TOURISM INFRASTRUCTURE

Pub. L. 114–94, div. A, title I, § 1431, Dec. 4, 2015, 129 Stat. 1427, as amended by Pub. L. 117–58, div. B, title V, § 25018(a), Nov. 15, 2021, 135 Stat. 874, provided that:

“(a) FINDINGS.—Congress finds that—

“(1) 1 out of every 9 jobs in the United States depends on travel and tourism, and the industry supports 15,000,000 jobs in the United States;

“(2) the travel and tourism industry employs individuals in all 50 States, the District of Columbia, and all of the territories of the United States;

“(3) international travel to the United States is the single largest export industry in the United States, generating a trade surplus balance of approximately \$74,000,000,000;

“(4) travel and tourism provide significant economic benefits to the United States by generating nearly \$2,100,000,000,000 in annual economic output; and

“(5) the United States intermodal transportation network facilitates the large-scale movement of business and leisure travelers, and is the most important asset of the travel industry.

“(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Sec-

retary [of Transportation] shall establish an advisory committee to be known as the National Advisory Committee on Travel and Tourism Infrastructure (referred to in this section as the ‘Committee’) to provide information, advice, and recommendations to the Secretary on matters relating to the role of intermodal transportation in facilitating mobility related to travel and tourism activities.

“(c) MEMBERSHIP.—The Committee shall—

“(1) be composed of members appointed by the Secretary for terms of not more than 3 years; and

“(2) include a representative cross-section of public and private sector stakeholders involved in the travel and tourism industry, including representatives of—

“(A) the travel and tourism industry, product and service providers, and travel and tourism-related associations;

“(B) travel, tourism, and destination marketing organizations;

“(C) the travel and tourism-related workforce;

“(D) State tourism offices;

“(E) State departments of transportation;

“(F) regional and metropolitan planning organizations; and

“(G) local governments.

“(d) ROLE OF COMMITTEE.—The Committee shall—

“(1) advise the Secretary on current and emerging priorities, issues, projects, and funding needs related to the use of the intermodal transportation network of the United States to facilitate travel and tourism;

“(2) serve as a forum for discussion for travel and tourism stakeholders on transportation issues affecting interstate and interregional mobility of passengers;

“(3) promote the sharing of information between the private and public sectors on transportation issues impacting travel and tourism;

“(4) gather information, develop technical advice, and make recommendations to the Secretary on policies that improve the condition and performance of an integrated national transportation system that—

“(A) is safe, economical, and efficient; and

“(B) maximizes the benefits to the United States generated through the travel and tourism industry;

“(5) identify critical transportation facilities and corridors that facilitate and support the interstate and interregional transportation of passengers for tourism, commercial, and recreational activities;

“(6) provide for development of measures of condition, safety, and performance for transportation related to travel and tourism;

“(7) provide for development of transportation investment, data, and planning tools to assist Federal, State, and local officials in making investment decisions relating to transportation projects that improve travel and tourism; and

“(8) address other issues of transportation policy and programs impacting the movement of travelers for tourism and recreational purposes, including by making legislative recommendations.

“(e) NATIONAL TRAVEL AND TOURISM INFRASTRUCTURE STRATEGIC PLAN.—Not later than 180 days after the date of enactment of the Surface Transportation Investment Act of 2021 [Nov. 15, 2021], the Secretary, in consultation with the Committee, State departments of transportation, and other appropriate public and private transportation stakeholders, shall develop and post on the public Internet website of the Department a national travel and tourism infrastructure strategic plan—

“(1) to develop an immediate-term and long-term strategy, including policy recommendations across all modes of transportation, for the Department and other agencies to use infrastructure investments to revive the travel and tourism industry and the overall travel and tourism economy in the wake of the Coronavirus Disease 2019 (COVID-19) pandemic; and

“(2) that includes—

“(A) an assessment of the condition and performance of the national transportation network, in-

cluding consideration of the impacts of the COVID-19 pandemic;

“(B) an identification of the issues on the national transportation network that create significant congestion problems and barriers to long-haul passenger travel and tourism;

“(C) forecasts of long-haul passenger travel and tourism volumes for the 20-year period beginning in the year during which the plan is issued;

“(D) an identification of the major transportation facilities and corridors of regional significance for current and forecasted long-haul travel and tourism volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

“(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved long-haul passenger travel performance (including opportunities for overcoming the barriers);

“(F) best practices for improving the performance of the national transportation network;

“(G) strategies to improve intermodal connectivity for long-haul passenger travel and tourism; and

“(H) an identification of possible infrastructure investments that create recovery opportunities for small, underserved, minority, and rural businesses in the travel and tourism industry, including efforts to preserve and protect the scenic, but often less-traveled, roads that promote tourism and economic development throughout the United States.”

COLLABORATION AND SUPPORT

Pub. L. 114-94, div. A, title VI, §6024, Dec. 4, 2015, 129 Stat. 1585, provided that: “The Secretary [of Transportation] may solicit the support of, and identify opportunities to collaborate with, other Federal research agencies and national laboratories to assist in the effective and efficient pursuit and resolution of research challenges identified by the Secretary.”

PUBLIC-PRIVATE PARTNERSHIPS

Pub. L. 112-141, div. A, title I, §1534, July 6, 2012, 126 Stat. 584, provided that:

“(a) BEST PRACTICES.—The Secretary [of Transportation] shall compile, and make available to the public on the website of the Department [of Transportation], best practices on how States, public transportation agencies, and other public officials can work with the private sector in the development, financing, construction, and operation of transportation facilities.

“(b) CONTENTS.—The best practices compiled under subsection (a) shall include policies and techniques to ensure that the interests of the traveling public and State and local governments are protected in any agreement entered into with the private sector for the development, financing, construction, and operation of transportation facilities.

“(c) TECHNICAL ASSISTANCE.—The Secretary, on request, may provide technical assistance to States, public transportation agencies, and other public officials regarding proposed public-private partnership agreements for the development, financing, construction, and operation of transportation facilities, including assistance in analyzing whether the use of a public-private partnership agreement would provide value compared with traditional public delivery methods.

“(d) STANDARD TRANSACTION CONTRACTS.—

“(1) DEVELOPMENT.—Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary shall develop standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction, and operation of transportation facilities.

“(2) USE.—The Secretary shall encourage States, public transportation agencies, and other public offi-

cials to use the model contracts as a base template when developing their own public-private partnership agreements for the development, financing, construction, and operation of transportation facilities.”

VESSEL TRANSFER AUTHORITY

Pub. L. 109-364, div. C, title XXXV, § 3504, Oct. 17, 2006, 120 Stat. 2516, provided that: “The Secretary of Transportation may transfer or otherwise make available without reimbursement to any other department a vessel under the jurisdiction of the Department of Transportation, upon request by the Secretary of the department that receives the vessel.”

BUDGET JUSTIFICATION

Pub. L. 112-141, div. A, title I, § 1532, July 6, 2012, 126 Stat. 583, provided that: “The Secretary [of Transportation] shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification for each agency of the Department concurrently with the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code.”

Pub. L. 109-59, title I, § 1926, Aug. 10, 2005, 119 Stat. 1483, as amended by Pub. L. 110-244, title I, § 108(a), June 6, 2008, 122 Stat. 1602, provided that: “Notwithstanding any other provision of law, the Department of Transportation and each agency in the Department shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification concurrently with the President’s annual budget submission to Congress under section 1105(a) of title 31, United States Code.”

COORDINATED TRANSPORTATION SERVICES

Pub. L. 105-178, title III, § 3034, June 9, 1998, 112 Stat. 386, provided that, not later than 1 year after June 9, 1998, the Comptroller General would transmit to Congress the results of a study of Federal departments and agencies (other than the Department of Transportation) receiving Federal financial assistance for non-emergency transportation services and any recommendations for enhanced coordination between the Department of Transportation and other Federal departments and agencies that provide non-emergency transportation funding.

ESTABLISHMENT OF NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM

Pub. L. 105-66, title III, § 346, Oct. 27, 1997, 111 Stat. 1449, provided that:

“(a) As soon as practicable after the date of enactment of this Act [Oct. 27, 1997], the Secretary of Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as ‘GWEN’) as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the ‘Nationwide Differential Global Positioning System’ (referred to in this section as ‘NDGPS’).

“(b) As soon as practicable after the date of enactment of this Act [Oct. 27, 1997], the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may—

“(1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);

“(2) to the maximum extent practicable, use contractor services to install the NDGPS;

“(3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);

“(4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated

into, the Continuously Operating Reference Station (commonly referred to as ‘CORS’) system of the National Geodetic Survey of the Department of Commerce; and

“(5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.

“(c) The Secretary of Transportation may—

“(1) manage and operate the NDGPS;

“(2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and

“(3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.

“(d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.

“(e) The Secretary of Transportation may—

“(1) in cooperation with appropriate representatives of private industries and universities and officials of State governments—

“(A) investigate improvements (including potential improvements) to the NDGPS;

“(B) develop standards for the NDGPS; and

“(C) sponsor the development of new applications for the NDGPS; and

“(2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of—

“(A) the Federal Government;

“(B) State and local governments; and

“(C) the general public.”

INTERMODAL TRANSPORTATION ADVISORY BOARD AND OFFICE OF INTERMODALISM

Pub. L. 102-240, title V, § 5002(b), (c), Dec. 18, 1991, 105 Stat. 2158, which provided for establishment within the Office of the Secretary of Transportation of an Intermodal Transportation Advisory Board to make recommendations for carrying out responsibilities of the Secretary concerning the coordination of Federal policy on intermodal transportation, and for establishment within the Office of the Secretary of an Office of Intermodalism to develop intermodal transportation data, to coordinate Federal research on intermodal transportation, to provide technical assistance to States and metropolitan planning organizations, and to provide administrative and clerical support to the Intermodal Transportation Advisory Board, was repealed and reenacted as sections 5502 and former 5503 of this title by Pub. L. 103-272, §§ 1(d), 7(b), July 5, 1994, 108 Stat. 849, 850, 1379.

MODEL INTERMODAL TRANSPORTATION PLANS

Pub. L. 102-240, title V, § 5003, Dec. 18, 1991, 105 Stat. 2159, which directed Secretary of Transportation to make grants to States, representing a variety of geographic regions and transportation needs, patterns, and modes, for purpose of developing model State intermodal transportation plans consistent with policy of United States to encourage and promote development of national intermodal transportation system, was repealed and reenacted as section 5504 of this title by Pub. L. 103-272, §§ 1(d), 7(b), July 5, 1994, 108 Stat. 850, 1379.

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

Pub. L. 102-240, title V, § 5005, Dec. 18, 1991, 105 Stat. 2160, provided for establishment of a National Commission on Intermodal Transportation, consisting of 11 appointed members, to make a complete investigation and study of intermodal transportation in the United States and internationally and to send a report to Congress not later than Sept. 30, 1993, containing rec-

ommendations for implementing the policy set out in section 302(e) of this title, with the Commission to terminate on the 180th day following transmittal of the report, prior to repeal by Pub. L. 104-287, §7(3), Oct. 11, 1996, 110 Stat. 3400.

BORDER CROSSINGS

Pub. L. 102-240, title VI, §6015, Dec. 18, 1991, 105 Stat. 2181, directed Secretary of Transportation to identify existing and emerging trade corridors and transportation subsystems that facilitate trade between United States, Canada, and Mexico and to recommend changes to improve and integrate corridor subsystems in order to achieve increased productivity and use of innovative marketing techniques, and directed Secretary to report to Congress not later than 18 months after Dec. 18, 1991, on transportation infrastructure needs and associated costs and to propose an agenda to develop systemwide integration of services for national benefits.

UNDERGROUND PIPELINES

Pub. L. 102-240, title VI, §6020, Dec. 18, 1991, 105 Stat. 2184, directed Secretary of Transportation to conduct a study to evaluate feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas, and to submit, not later than 2 years after Dec. 18, 1991, a report to Congress on the results of the study, prior to repeal by Pub. L. 104-287, §7(3), Oct. 11, 1996, 110 Stat. 3400.

LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY

Pub. L. 100-457, title III, §317(b), Sept. 30, 1988, 102 Stat. 2149, directed Department of Transportation to undertake a long-range, multi-modal national transportation strategic planning study, such study to forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015 and to include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area, with study to be submitted to Congress on or before Oct. 1, 1989. Similar provisions were contained in the following prior appropriation act: Pub. L. 100-202, §101(l) [title III, §317(b)], Dec. 22, 1987, 101 Stat. 1329-358, 1329-381.

Executive Documents

COMMERCIAL EXPENDABLE LAUNCH VEHICLE ACTIVITIES

Designation of Department of Transportation as lead agency and duties of the Secretary for encouraging, facilitating, and developing commercial expendable launch vehicle operations by private enterprise, see Ex. Ord. No. 12465, Feb. 24, 1984, 49 F.R. 7211, set out under section 50903 of Title 51, National and Commercial Space Programs.

EX. ORD. NO. 13274. ENVIRONMENTAL STEWARDSHIP AND TRANSPORTATION INFRASTRUCTURE PROJECT REVIEWS

Ex. Ord. No. 13274, Sept. 18, 2002, 67 F.R. 59449, as amended by Ex. Ord. No. 13286, §2, Feb. 28, 2003, 68 F.R. 10619, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enhance environmental stewardship and streamline the environmental review and development of transportation infrastructure projects, it is hereby ordered as follows:

SECTION 1. Policy. The development and implementation of transportation infrastructure projects in an efficient and environmentally sound manner is essential to the well-being of the American people and a strong American economy. Executive departments and agencies (agencies) shall take appropriate actions, to the

extent consistent with applicable law and available resources, to promote environmental stewardship in the Nation's transportation system and expedite environmental reviews of high-priority transportation infrastructure projects.

SEC. 2. Actions. (a) For transportation infrastructure projects, agencies shall, in support of the Department of Transportation, formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews (reviews) with respect to such projects to ensure completion of such reviews in a timely and environmentally responsible manner.

(b) In furtherance of the policy set forth in section 1 of this order, the Secretary of Transportation, in coordination with agencies as appropriate, shall advance environmental stewardship through cooperative actions with project sponsors to promote protection and enhancement of the natural and human environment in the planning, development, operation, and maintenance of transportation facilities and services.

(c) The Secretary of Transportation shall designate for the purposes of this order a list of high-priority transportation infrastructure projects that should receive expedited agency reviews and shall amend such list from time to time as the Secretary deems appropriate. For projects on the Secretary's list, agencies shall to the maximum extent practicable expedite their reviews for relevant permits or other approvals, and take related actions as necessary, consistent with available resources and applicable laws, including those relating to safety, public health, and environmental protection.

SEC. 3. Interagency Task Force. (a) *Establishment.* There is established, within the Department of Transportation for administrative purposes, the interagency "Transportation Infrastructure Streamlining Task Force" (Task Force) to: (i) monitor and assist agencies in their efforts to expedite a review of transportation infrastructure projects and issue permits or similar actions, as necessary; (ii) review projects, at least quarterly, on the list of priority projects pursuant to section 2(c) of this order; and (iii) identify and promote policies that can effectively streamline the process required to provide approvals for transportation infrastructure projects, in compliance with applicable law, while maintaining safety, public health, and environmental protection.

(b) *Membership and Operation.* The Task Force shall promote interagency cooperation and the establishment of appropriate mechanisms to coordinate Federal, State, tribal, and local agency consultation, review, approval, and permitting of transportation infrastructure projects. The Task Force shall consist exclusively of the following officers of the United States: the Secretary of Agriculture, Secretary of Commerce, Secretary of Transportation (who shall chair the Task Force), Secretary of the Interior, Secretary of Defense, Secretary of Homeland Security, Administrator of the Environmental Protection Agency, Chairman of the Advisory Council on Historic Preservation, and Chairman of the Council on Environmental Quality. A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is part of the member's department, agency, or office and who is either an officer of the United States appointed by the President with the advice and consent of the Senate or a member of the Senior Executive Service. The Task Force shall report to the President through the Chairman of the Council on Environmental Quality.

SEC. 4. Report. At least once each year, the Task Force shall submit to the President a report that: (a) Describes the results of the coordinated and expedited reviews on a project-by-project basis, and identifies those procedures and actions that proved to be most useful and appropriate in coordinating and expediting the review of the projects.

(b) Identifies substantive and procedural requirements of Federal, State, tribal, and local laws, regula-

tions, and Executive Orders that are inconsistent with, duplicative of, or are structured so as to restrict their efficient implementation with other applicable requirements.

(c) Makes recommendations regarding those additional actions that could be taken to: (i) address the coordination and expediting of reviews of transportation infrastructure projects by simplifying and harmonizing applicable substantive and procedural requirements; and (ii) elevate and resolve controversies among Federal, State, tribal, and local agencies related to the review or impacts of transportation infrastructure projects in a timely manner.

(d) Provides any other recommendations that would, in the judgement of the Task Force, advance the policy set forth in section 1 of this order.

SEC. 5. *Preservation of Authority.* Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

SEC. 6. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 13101 of this title in addition to other laws.

(b) This subtitle and chapters 221 and 315 of this title do not authorize, without appropriate action by Congress, the adoption, revision, or implementation of a transportation policy or investment standards or criteria.

(c) The Secretary shall consider the needs—

- (1) for effectiveness and safety in transportation systems; and
- (2) of national defense.

(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

(A) conducting economic and technological research;

(B) demonstrating advancements in high-speed ground transportation technologies;

(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

(D) minimizing the long-term risks of investors.

(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.

(e) **INTERMODAL TRANSPORTATION.**—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy,

and obtain the optimum yield from the Nation's transportation resources.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-240, title I, §1036(a), title V, §5001, Dec. 18, 1991, 105 Stat. 1978, 2158; Pub. L. 103-272, §5(m)(6), July 5, 1994, 108 Stat. 1375; Pub. L. 104-88, title III, §308(a), Dec. 29, 1995, 109 Stat. 946.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302(a)	49:1653(b)(1).	Oct. 15, 1966, Pub. L. 89-670, §4(b), 80 Stat. 933.
302(b)	49:1653(b)(2).	
302(c)	49:1653(b)(3).	

In subsection (a), the words “In carrying out his duties and responsibilities under this chapter” before “Secretary of Transportation” are omitted as surplus. The words “the transportation policy of sections 10101 and 10101a of this title in addition to other laws” are substituted for “all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended [49 U.S.C. 1301 et seq.]; the national transportation policy of the Interstate Commerce Act, as amended; title 23, relating to Federal-aid highways; and title 14, titles 52 and 53 of the Revised Statutes, the Act of April 25, 1940, as amended, and the Act of September 2, 1958, as amended, relating to the United States Coast Guard” because each of the omitted laws is now applicable to the Secretary of Transportation and the Department of Transportation as the result of the restatement of those laws, and the Secretary is therefore bound to follow those laws by their own terms.

In subsection (c), the words “In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this chapter” before “Secretary” are omitted as surplus. The word “consider” is substituted for “give full consideration to” to eliminate surplus words. The words “for operational continuity of the functions transferred” after “the needs” are omitted as executed.

Editorial Notes

AMENDMENTS

1995—Subsec. (a). Pub. L. 104-88 substituted “13101” for “10101a”.

1994—Subsec. (b). Pub. L. 103-272 substituted “This subtitle and chapters 221 and 315 of this title” for “Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 App. U.S.C. 1651 et seq.)”.

1991—Subsec. (d). Pub. L. 102-240, §1036(a), added subsec. (d).

Subsec. (e). Pub. L. 102-240, §5001, added subsec. (e).

1984—Subsec. (b). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1036(a) of Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of Title 23, Highways.

§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsections (d) and (h), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204¹ of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(d) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process re-

quired under section 306108 of title 54, United States Code,² that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(e) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

(1) IN GENERAL.—The Secretary shall—

(A) align, to the maximum extent practicable, the requirements of this section with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 306108 of title 54, including implementing regulations; and

(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the “Council”) to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

(i) include the determination of the Secretary in the analysis required under that Act;

(ii) provide a notice of the determination to—

¹ See References in Text note below.

² So in original. The words “, United States Code” probably should not appear.

(I) each applicable State historic preservation officer and tribal historic preservation officer;

(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

(III) the Secretary of the Interior; and

(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy subsection (c)(1).

(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (c)(1) shall be required.

(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall—

(i) be included in the record of decision or finding of no significant impact of the Secretary; and

(ii) be posted on an appropriate Federal website by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

(3) ALIGNING HISTORICAL REVIEWS.—

(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy subsection (c)(2) through the consultation requirements of section 306108 of title 54.

(B) SATISFACTION OF CONDITIONS.—To satisfy subsection (c)(2), the applicable preservation officer, the Council, and the Secretary of the Interior shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.

(f) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 917) as in effect before the repeal of that section).

(g) BRIDGE EXEMPTION FROM CONSIDERATION.—A common post-1945 concrete or steel bridge or culvert (as described in 77 Fed. Reg. 68790) that is exempt from individual review under section

306108 of title 54 shall be exempt from consideration under this section.

(h) RAIL AND TRANSIT.—

(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (c), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to—

(i) stations; or

(ii) bridges or tunnels located on—

(I) railroad lines that have been abandoned; or

(II) transit lines that are not in use.

(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

(i) over which service has been discontinued; or

(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 100–17, title I, §133(d), Apr. 2, 1987, 101 Stat. 173; Pub. L. 109–59, title VI, §6009(a)(2), Aug. 10, 2005, 119 Stat. 1875; Pub. L. 113–287, §5(p), Dec. 19, 2014, 128 Stat. 3272; Pub. L. 114–94, div. A, title I, §§1301(b), 1302(b), 1303(b), title XI, §11502(b), Dec. 4, 2015, 129 Stat. 1376, 1378, 1690.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303(a)	49:1651(b)(2). 49:1653(f) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §2(b)(2), 80 Stat. 931. Oct. 15, 1966, Pub. L. 89–670, §4(f), 80 Stat. 934; restated Aug. 23, 1968, Pub. L. 90–495, §18(b), 82 Stat. 824.
303(b)	49:1653(f) (2d sentence).	
303(c)	49:1653(f) (less 1st, 2d sentences).	

In subsection (a), the words “hereby declared to be” before “the policy” are omitted as surplus. The words “of the United States Government” are substituted for “national” for clarity and consistency.

In subsection (b), the words “crossed by transportation activities or facilities” are substituted for “traversed” for clarity.

In subsection (c), before clause (1), the words “After August 23, 1968” after “Secretary” are omitted as executed. The word “transportation” is inserted before “program” for clarity. In clause (2), the words “or project” are added for consistency.

Editorial Notes

REFERENCES IN TEXT

Section 204 of title 23, referred to in subsec. (c), was repealed and a new section 204 enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489.

The National Environmental Policy Act of 1969, referred to in subsec. (e)(1)(A), (2)(A), is Pub. L. 91–190,

Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (e)(1)(B), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-94, § 11502(b)(1), substituted “subsections (d) and (h)” for “subsection (d)”. Subsec. (e). Pub. L. 114-94, § 1301(b), added subsec. (e). Subsec. (f). Pub. L. 114-94, § 1302(b), added subsec. (f). Subsec. (g). Pub. L. 114-94, § 1303(b), added subsec. (g). Subsec. (h). Pub. L. 114-94, § 11502(b)(2), added subsec. (h).

2014—Subsec. (d)(2)(A). Pub. L. 113-287 substituted “section 306108 of title 54, United States Code” for “section 106 of the National Historic Preservation Act (16 U.S.C. 470f)” in introductory provisions.

2005—Subsec. (c). Pub. L. 109-59, § 6009(a)(2)(A), inserted heading and substituted “Subject to subsection (d), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (d). Pub. L. 109-59, § 6009(a)(2)(B), added subsec. (d).

1987—Subsec. (c). Pub. L. 100-17 inserted “(other than any project for a park road or parkway under section 204 of title 23)” after “program or project”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

TREATMENT OF MILITARY FLIGHT OPERATIONS

Pub. L. 105-85, div. A, title X, § 1079, Nov. 18, 1997, 111 Stat. 1916, provided that: “No military flight operation (including a military training flight), or designation of airspace for such an operation, may be treated as a transportation program or project for purposes of section 303(c) of title 49, United States Code.”

§ 303a. Development of water transportation

(a) **POLICY.**—It is the policy of Congress—

(1) to promote, encourage, and develop water transportation, service, and facilities for the commerce of the United States; and

(2) to foster and preserve rail and water transportation.

(b) **DEFINITION.**—In this section, “inland waterway” includes the Great Lakes.

(c) **REQUIREMENTS.**—The Secretary of Transportation shall—

(1) investigate the types of vessels suitable for different classes of inland waterways to promote, encourage, and develop inland waterway transportation facilities for the commerce of the United States;

(2) investigate water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, and equipment, and investigate railroad spurs and switches connecting with those water terminals, to develop the types most appropriate for different locations and for transferring passengers or property between water carriers and rail carriers more expeditiously and economically;

(3) consult with communities, cities, and towns about the location of water terminals,

and cooperate with them in preparing plans for terminal facilities;

(4) investigate the existing status of water transportation on the different inland waterways of the United States to learn the extent to which—

(A) the waterways are being used to their capacity and are meeting the demands of traffic; and

(B) water carriers using those waterways are interchanging traffic with rail carriers;

(5) investigate other matters that may promote and encourage inland water transportation; and

(6) compile, publish, and distribute information about transportation on inland waterways that the Secretary considers useful to the commercial interests of the United States.

(Pub. L. 103-272, § 4(j)(6)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303a	49 App.:142.	Feb. 28, 1920, ch. 91, § 500, 41 Stat. 499; Aug. 6, 1981, Pub. L. 97-31, § 12(9), 95 Stat. 154.

Section 4(j)(6)(A) amends 49:ch. 3 by restating 49 App.:142 as section 303a because the provision more appropriately belongs in chapter 3.

In subsection (a)(2), the words “in full vigor both” are omitted as surplus.

In subsection (b), the words “be construed to” are omitted as surplus.

In subsection (c)(1), the word “appropriate” is omitted as surplus. The word “vessels” is substituted for “boats” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words “the subject of”, “apparatus”, “appliances in connection therewith”, and “or interchange” are omitted as surplus.

In subsection (c)(3), the words “appropriate” and “suitable” are omitted as surplus.

In subsection (c)(6), the words “province and”, “from time to time”, and “useful statistics, data, and” are omitted as surplus.

Statutory Notes and Related Subsidiaries

ARCTIC SHIPPING FEDERAL ADVISORY COMMITTEE

Pub. L. 116-283, div. G, title LVXXXIV [LXXXIV], § 8426, Jan. 1, 2021, 134 Stat. 4730, provided that:

“(a) **PURPOSE.**—The purpose of this section is to establish a Federal advisory committee to provide policy recommendations to the Secretary of Transportation on positioning the United States to take advantage of emerging opportunities for Arctic maritime transportation.

“(b) **DEFINITIONS.**—In this section:

“(1) **ADVISORY COMMITTEE.**—The term ‘Advisory Committee’ means the Arctic Shipping Federal Advisory Committee established under subsection (c)(1).

“(2) **ARCTIC.**—The term ‘Arctic’ has the meaning given the term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

“(3) **Arctic sea routes.**—The term ‘Arctic Sea Routes’ means the international Northern Sea Route, the Transpolar Sea Route, and the Northwest Passage.

“(c) **ESTABLISHMENT OF THE ARCTIC SHIPPING FEDERAL ADVISORY COMMITTEE.**—

“(1) **ESTABLISHMENT OF ADVISORY COMMITTEE.**—

“(A) **IN GENERAL.**—The Secretary of Transportation, in coordination with the Secretary of State,

the Secretary of Defense acting through the Secretary of the Army and the Secretary of the Navy, the Secretary of Commerce, and the Secretary of the Department in which the Coast Guard is operating, shall establish an Arctic Shipping Federal Advisory Committee in the Department of Transportation to advise the Secretary of Transportation and the Secretary of the Department in which the Coast Guard is operating on matters related to Arctic maritime transportation, including Arctic seaway development.

“(B) MEETINGS.—The Advisory Committee shall meet at the call of the Chairperson, and at least once annually in Alaska.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The Advisory Committee shall be composed of 17 members as described in subparagraph (B).

“(B) COMPOSITION.—The members of the Advisory Committee shall be—

“(i) 1 individual appointed and designated by the Secretary of Transportation to serve as the Chairperson of the Advisory Committee;

“(ii) 1 individual appointed and designated by the Secretary of the Department in which the Coast Guard is operating to serve as the Vice Chairperson of the Advisory Committee;

“(iii) 1 designee of the Secretary of Commerce;

“(iv) 1 designee of the Secretary of State;

“(v) 1 designee of the Secretary of Transportation;

“(vi) 1 designee of the Secretary of Defense;

“(vii) 1 designee from the State of Alaska, nominated by the Governor of Alaska and designated by the Secretary of Transportation;

“(viii) 1 designee from the State of Washington, nominated by the Governor of Washington and designated by the Secretary of Transportation;

“(ix) 3 Alaska Native Tribal members;

“(x) 1 individual representing Alaska Native subsistence co-management groups affected by Arctic maritime transportation;

“(xi) 1 individual representing coastal communities affected by Arctic maritime transportation;

“(xii) 1 individual representing vessels of the United States (as defined in section 116 of title 46, United States Code) participating in the shipping industry;

“(xiii) 1 individual representing the marine safety community;

“(xiv) 1 individual representing the Arctic business community; and

“(xv) 1 individual representing maritime labor organizations.

“(C) TERMS.—

“(i) LIMITATIONS.—Each member of the Advisory Committee described in clauses (vii) through (xv) of subparagraph (B) shall serve for a 2-year term and shall not be eligible for more than 2 consecutive term reappointments.

“(ii) VACANCIES.—Any vacancy in the membership of the Advisory Committee shall not affect its responsibilities, but shall be filled in the same manner as the original appointment and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

“(3) FUNCTIONS.—The Advisory Committee shall carry out all of the following functions:

“(A) Develop a set of policy recommendations that would enhance the leadership role played by the United States in improving the safety and reliability of Arctic maritime transportation in accordance with customary international maritime law and existing Federal authority. Such policy recommendations shall consider options to establish a United States entity that could perform the following functions in accordance with United States law and customary international maritime law:

“(i) Construction, operation, and maintenance of current and future maritime infrastructure necessary for vessels transiting the Arctic Sea Routes, including potential new deep draft and deepwater ports.

“(ii) Provision of services that are not widely commercially available in the United States Arctic that would—

“(I) improve Arctic maritime safety and environmental protection;

“(II) enhance Arctic maritime domain awareness; and

“(III) support navigation and incident response for vessels transiting the Arctic Sea Routes.

“(iii) Establishment of rules of measurement for vessels and cargo for the purposes of levying voluntary rates of charges or fees for services.

“(B) As an option under subparagraph (A), consider establishing a congressionally chartered seaway development corporation modeled on the Saint Lawrence Seaway Development Corporation, and—

“(i) develop recommendations for establishing such a corporation and a detailed implementation plan for establishing such an entity; or

“(ii) if the Advisory Committee decides against recommending the establishment of such a corporation, provide a written explanation as to the rationale for the decision and develop an alternative, as practicable.

“(C) Provide advice and recommendations, as requested, to the Secretary of Transportation and the Secretary of the Department in which the Coast Guard is operating on Arctic marine transportation, including seaway development, and consider national security interests, where applicable, in such recommendations.

“(D) In developing the advice and recommendations under subparagraph (C), engage with and solicit feedback from coastal communities, Alaska Native subsistence co-management groups, and Alaska Native tribes.

“(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [Jan. 1, 2021], the Advisory Committee shall submit a report with its recommendations under subparagraphs (A) and (B) of subsection (c)(3) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(e) TERMINATION OF THE ADVISORY COMMITTEE.—Not later than 8 years after the submission of the report described in subsection (d), the Secretary of Transportation shall dissolve the Advisory Committee.

“(f) INTERNATIONAL ENGAGEMENT.—If a Special Representative for the Arctic Region is appointed by the Secretary of State, the duties of that Representative shall include—

“(1) coordination of any activities recommended by the implementation plan submitted by the Advisory Committee and approved by the Secretary of Transportation; and

“(2) facilitation of multilateral dialogues with member and observer nations of the Arctic Council to encourage cooperation on Arctic maritime transportation.

“(g) TRIBAL CONSULTATION.—In implementing any of the recommendations provided under subsection (c)(3)(C), the Secretary of Transportation shall consult with Alaska Native tribes.”

§ 304. Application of categorical exclusions for multimodal projects

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COOPERATING AUTHORITY.—The term “cooperating authority” means a Department of Transportation operating administration or

secretarial office that has expertise but is not the lead authority with respect to a proposed multimodal project.

(2) **LEAD AUTHORITY.**—The term “lead authority” means a Department of Transportation operating administration or secretarial office that has the lead responsibility for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a proposed multimodal project.

(3) **MULTIMODAL PROJECT.**—The term “multimodal project” has the meaning given the term in section 139(a) of title 23.

(b) **EXERCISE OF AUTHORITIES.**—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title or title 23.

(c) **APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.**—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply categorical exclusions designated under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in implementing regulations or procedures of a cooperating authority for a proposed multimodal project, subject to the conditions that—

(1) the lead authority makes a determination, with the concurrence of the cooperating authority—

(A) on the applicability of a categorical exclusion to a proposed multimodal project; and

(B) that the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section;

(2) the lead authority follows the implementing regulations of the cooperating authority or procedures under that Act; and

(3) the lead authority determines that—

(A) the proposed multimodal project does not individually or cumulatively have a significant impact on the environment; and

(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under that Act.

(d) **COOPERATING AUTHORITY EXPERTISE.**—A cooperating authority shall provide expertise to the lead authority on aspects of the multimodal project in which the cooperating authority has expertise.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 112–141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547; Pub. L. 114–94, div. A, title I, §1310, Dec. 4, 2015, 129 Stat. 1397.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
304(a)	49:1653(g) (less 3d sentence).	Oct. 15, 1966, Pub. L. 89–670, §4(g), 80 Stat. 934.
304(b)	49:1653(g) (3d sentence).	

In subsection (a), the text of 49:1653(g) (last sentence) is omitted as executed.

In subsection (a)(4), the word “ensure” is substituted for “assure” as being more precise. The words “of the United States Government” are substituted for “Federal”, and the words “United States” are substituted for “national”, for clarity and consistency.

In subsection (b), the words “The Secretaries shall report on April 1 of each year” are substituted for “They shall, within one year after the effective date of the Act, and annually thereafter, report” to omit executed words and to specify the date of April 1 because the President prescribed April 1, 1967, as the effective date of the Department of Transportation Act (Pub. L. 89–670, 80 Stat. 931) by Executive Order No. 11340, March 30, 1967 (32 F.R. 5443). The word “consider” is substituted for “determine” for consistency.

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(2) and (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §1310(1)(A), substituted “operating administration or secretarial office that has expertise but” for “operating authority that” and inserted “proposed multimodal” after “with respect to a”.

Subsec. (a)(2). Pub. L. 114–94, §1310(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The term ‘lead authority’ means a Department of Transportation operating administration or secretarial office that—

“(A) is the lead authority over a proposed multimodal project; and

“(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

“(i) satisfy the conditions for a categorical exclusion under implementing regulations or procedures of the lead authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(ii) do not require the preparation of an environmental assessment or environmental impact statement under that Act.”

Subsec. (b). Pub. L. 114–94, §1310(2), inserted “or title 23” after “under this title”.

Subsec. (c). Pub. L. 114–94, §1310(3), added subsec. (c) and struck out former subsec. (c) which related to application of categorical exclusions for multimodal projects.

Subsec. (d). Pub. L. 114–94, §1310(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows:

“(1) **IN GENERAL.**—A cooperating authority shall provide modal expertise to the lead authority on such aspects of the multimodal project in which the cooperating authority has expertise.

“(2) **USE OF CATEGORICAL EXCLUSION.**—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the implementing regulations or procedures of the cooperating authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section.”

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to joint activities with the Secretary of Housing and Urban Development.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note

under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 304a. Accelerated decisionmaking in environmental reviews

(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement, instead of rewriting the draft statement, subject to the condition that the errata sheets—

- (1) cite the sources, authorities, and reasons that support the position of the agency; and
- (2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

- (1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
- (2) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

(c) ADOPTION AND INCORPORATION BY REFERENCE OF DOCUMENTS.—

(1) AVOIDING DUPLICATION.—To prevent duplication of analyses and support expeditious and efficient decisions, the operating administrations of the Department of Transportation shall use adoption and incorporation by reference in accordance with this subsection.

(2) ADOPTION OF DOCUMENTS OF OTHER OPERATING ADMINISTRATIONS.—An operating administration or a secretarial office within the Department of Transportation may adopt a draft environmental impact statement, an environmental assessment, or a final environmental impact statement of another operating administration for the use of the adopting operating administration when preparing an environmental assessment or final environmental impact statement for a project without recirculating the document for public review, if—

- (A) the adopting operating administration certifies that the proposed action is substantially the same as the project considered in the document to be adopted;
- (B) the other operating administration concurs with such decision; and
- (C) such actions are consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) INCORPORATION BY REFERENCE.—An operating administration or secretarial office

within the Department of Transportation may incorporate by reference all or portions of a draft environmental impact statement, an environmental assessment, or a final environmental impact statement for the use of the adopting operating administration when preparing an environmental assessment or final environmental impact statement for a project if—

- (A) the incorporated material is cited in the environmental assessment or final environmental impact statement and the contents of the incorporated material are briefly described;
- (B) the incorporated material is reasonably available for inspection by potentially interested persons within the time allowed for review and comment; and
- (C) the incorporated material does not include proprietary data that is not available for review and comment.

(Added Pub. L. 114-94, div. A, title I, §1311(a), Dec. 4, 2015, 129 Stat. 1398.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (c)(2)(C), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§ 305. Transportation investment standards and criteria

(a) Subject to sections 301-304¹ of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

- (1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;
- (2) an inter-oceanic canal located outside the 48 contiguous States;
- (3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;
- (4) foreign assistance programs;
- (5) water resources projects; or
- (6) grant-in-aid programs authorized by law.

(b) A department, agency, or instrumentality of the Government preparing a survey, plan, or

¹ See References in Text note below.

report that includes a proposal about which the Secretary has prescribed standards and criteria under subsection (a) of this section shall—

(1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—

(A) projected growth of transportation needs and traffic in the affected area;

(B) the relative efficiency of various modes of transportation;

(C) the available transportation services in the area; and

(D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;

(2) coordinate the survey, plan, or report—

(A) with the Secretary and include the views and comments of the Secretary; and

(B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local governments, and include their views and comments; and

(3) send the survey, plan, or report to the President for disposition under law and procedure established by the President.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2420.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
305(a)	49:1656(a) (less next-to-last par.).	Oct. 15, 1966, Pub. L. 89-670, §7 (less (a) next-to-last par.), 80 Stat. 941.
305(b)	49:1656 (less (a)).	

In subsection (a), before clause (1), the words “consistent with national transportation policies” after “develop standards and criteria” are omitted as unnecessary because of section 302 of the revised title. The words “Based on experience” are substituted for “in the light of experience”, and the words “shall prescribe” are substituted for “be promulgated by the”, to conform to other sections of the revised title. The words “from time to time” after “shall revise” are omitted as unnecessary. The words “This subsection does not apply to” are substituted for “except such proposals as are concerned with” for clarity. In clause (1), the words “a department, agency, or instrumentality of the Government” are substituted for “Federal agencies” for clarity and consistency. Similar conforming changes are made throughout the section. The word “services” after “provide transportation” is omitted as unnecessary. In clause (2), the words “48 contiguous States” are substituted for “contiguous United States” for clarity.

The text of 49:1656(a) (last par.) that provided that the Secretary of Transportation was a member of the Water Resources Council on matters pertaining to navigation features of water resource projects is omitted as superseded because 42:1962(a) gave the Secretary membership on the Council without limitation.

In subsection (b)(2), the words “unit of” before “governments” are omitted as surplus. In clause (3), the word “thereafter” after “send” is omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

Section 304 of this title, referred to in subsec. (a), was amended generally by Pub. L. 112-141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547.

§ 306. Prohibited discrimination

(a) In this section, “financial assistance” includes obligation guarantees.

(b) A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 or 333 or chapter 221, 224, or 249 of this title, or section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726).

(c) When the Secretary of Transportation decides that a person receiving financial assistance under a law referred to in subsection (b) of this section has not complied with that subsection, a Federal civil rights law, or an order or regulation issued under a Federal civil rights law, the Secretary shall notify the person of the decision and require the person to take necessary action to ensure compliance with that subsection.

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving a notice under subsection (c) of this section, the Secretary shall take at least one of the following actions:

(1) direct that no more Federal financial assistance be provided the person.

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought against the person.

(3) carry out the duties and powers provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) take other action provided by law.

(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section, or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2421; Pub. L. 98-216, §2(3), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103-272, §5(m)(7), July 5, 1994, 108 Stat. 1376; Pub. L. 117-58, div. B, title I, §21301(j)(4)(B), Nov. 15, 2021, 135 Stat. 693.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306(a)	45:803(f).	Feb. 5, 1976, Pub. L. 94-210, §905, 90 Stat. 148.
306(b)	45:803(a).	
306(c), (d) ...	45:803(b).	
306(e)	45:803(c)-(e).	

In subsection (b), the enumerated laws are substituted for “through financial assistance under this Act”, meaning the Rail Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31) and laws amended by that Act. The laws cited in the subsection are substituted for “through financial assistance under this Act” for clarity. The enumerated laws include provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 that amend other laws as well as provisions that are not amendments to other laws. A reference to the Urban Mass Transportation Act of 1964 (Pub. L. 88-365, 78 Stat. 302) is omitted because this section related to that Act is superseded by 49:1615.

In subsection (c), the word “decides” is substituted for “determines” for consistency. The word “ensure” is substituted for “assure” as being more precise.

In subsection (d), the words “at least one of the following actions” are substituted for “and/or” for clarity and consistency.

In subsection (e), the text of 45:803(d) is omitted as unnecessary because section 322 of the revised title gives the Secretary of Transportation general authority to prescribe regulations and other provisions of the revised title give the Secretary general authority to carry out his duties and powers. The text of 45:803(e) is omitted as unnecessary.

PUB. L. 98-216

This is necessary to correct a cross-reference in section 306(b) and to reflect the transfer of the non-positive law provisions of title 49 to title 49 appendix.

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (d)(3), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (b). Pub. L. 117-58 substituted “chapter 221, 224, or 249 of this title, or” for “chapter 221 or 249 of this title,” and struck out “, or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)” before period at end.

1994—Subsec. (b). Pub. L. 103-272 substituted “section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)” for “section 332 or 333 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 U.S.C. 1653(i), 1654)”.

1984—Subsec. (b). Pub. L. 98-216 substituted “section 332 or 333 of this title” for “section 332 of this title” and “49 App. U.S.C.” for “49 U.S.C.”.

§ 307. Improving State and Federal agency engagement in environmental reviews

(a) IN GENERAL.—

(1) REQUESTS TO PROVIDE FUNDS.—A public entity receiving financial assistance from the Department of Transportation for 1 or more projects, or for a program of projects, for a public purpose may request that the Secretary allow the public entity to provide funds to Federal agencies, including the Department, State agencies, and Indian tribes participating in the environmental planning and review process for the project, projects, or program.

(2) USE OF FUNDS.—The funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project, projects, or program.

(b) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under subsection (a) include transportation planning activities that precede the initiation of the environmental review process, activities directly re-

lated to the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(c) AMOUNTS.—A request under subsection (a) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to timely conduct the review.

(d) AGREEMENTS.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under subsection (a), the affected Federal agency and the requesting public entity shall enter into an agreement that establishes a process to identify projects or priorities to be addressed by the use of the funds.

(e) GUIDANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue guidance to implement this section.

(2) FACTORS.—As part of the guidance issued under paragraph (1), the Secretary shall ensure—

(A) to the maximum extent practicable, that expediting and improving the process of environmental review and permitting through the use of funds accepted and expended under this section does not adversely affect the timeline for review and permitting by Federal agencies, State agencies, or Indian tribes of other entities that have not contributed funds under this section;

(B) that the use of funds accepted under this section will not impact impartial decisionmaking with respect to environmental reviews or permits, either substantively or procedurally; and

(C) that the Secretary maintains, and makes publicly available, including on the Internet, a list of projects or programs for which such review or permits have been carried out using funds authorized under this section.

(f) EXISTING AUTHORITY.—Nothing in this section may be construed to conflict with section 139(j) of title 23.

(Added Pub. L. 114-94, div. A, title I, §1312(a), Dec. 4, 2015, 129 Stat. 1399.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

PRIOR PROVISIONS

A prior section 307, Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2421, related to safety information and intervention in Interstate Commerce Commission proceedings, prior to repeal by Pub. L. 112-141, div. C, title II, §32932(a)(1), July 6, 2012, 126 Stat. 829, effective Oct. 1, 2012.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amend-

ment note under section 5313 of Title 5, Government Organization and Employees.

§ 308. Reports

(a) As soon as practicable after the end of each fiscal year, the Secretary of Transportation shall report to the President, for submission to Congress, on the activities of the Department of Transportation during the prior fiscal year.

(b) The Secretary shall submit to the President and Congress each year a report on the aviation activities of the Department. The report shall include—

(1) collected information the Secretary considers valuable in deciding questions about—

(A) the development and regulation of civil aeronautics;

(B) the use of airspace of the United States; and

(C) the improvement of the air navigation and traffic control system; and

(2) recommendations for additional legislation and other action the Secretary considers necessary.

(c) The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the—

(1) economic and technological development of the ports;

(2) extent to which the ports contribute to the national welfare and security; and

(3) factors that may impede the continued development of the ports.

[(d) Repealed. Pub. L. 104-66, title I, §1121(h), Dec. 21, 1995, 109 Stat. 724.]

(e)(1) The Secretary shall submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.

(2) In reporting to Congress under this subsection, the Secretary shall prepare a complete assessment of public transportation facilities in the United States. The Secretary also shall assess future needs for those facilities and estimate future capital requirements and operation and maintenance requirements for one-year, 5-year, and 10-year periods at specified levels of service.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98-216, §2(1)(A), Feb. 14, 1984, 98 Stat. 4; Pub. L. 104-66, title I, §1121(h), Dec. 21, 1995, 109 Stat. 724; Pub. L. 105-362, title XV, §1502(c), Nov. 10, 1998, 112 Stat. 3295.)

HISTORICAL AND REVISION NOTES PUB. L. 97-449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
308(a)	45:792. 49:1658.	Jan. 2, 1974, Pub. L. 93-236, §602, 87 Stat. 1022. Oct. 15, 1966, Pub. L. 89-670, §12, 80 Stat. 949; Feb. 5, 1976, Pub. L. 94-210, §906(1), 90 Stat. 149. Aug. 23, 1958, Pub. L. 85-726, §313(e), 72 Stat. 753.
308(b)	49:1354(e).	Oct. 3, 1980, Pub. L. 96-371, §2, 94 Stat. 1362; Aug. 6, 1981, Pub. L. 97-31, §12(b), 95 Stat. 154.
308(c)	15:1519a.	

In subsection (a), the words “As part of his annual report each year” in 45:792 are omitted as unnecessary because of the restatement of the source provisions.

In subsection (b), before clause (1), the words “aviation activities of the Department” are substituted for “work performed under this chapter” because of the restatement. The words “The report shall include” are substituted for “Such report shall contain” for consistency. In clause (1), the words “and data” after “information” are omitted as surplus. The words “airspace of the United States” are substituted for “National airspace” for clarity and consistency. In clause (2), the words “the Secretary considers necessary” are substituted for “as may be considered” for clarity.

PUB. L. 98-216

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
308(d)	49 App.:1654a.	Oct. 14, 1980, Pub. L. 96-448, §409, 94 Stat. 1948; Dec. 21, 1982, Pub. L. 97-375, §210(a), 96 Stat. 1825.
308(e)	49 App.:1601c.	Jan. 6, 1983, Pub. L. 97-424, §310, 96 Stat. 2151.

This [deletion of the last sentence of subsection (a)] is necessary because section 111(b) of the Congressional Reports Elimination Act of 1982 (Pub. L. 97-375, 96 Stat. 1821) repealed section 602 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236, 87 Stat. 1022), which was restated as section 308(a) (last sentence) of title 49 by section 1 of the Act of January 12, 1983 (Pub. L. 97-449, 96 Stat. 2413).

In subsection (e)(1), the words “January of each even-numbered year” are substituted for “January of 1984 and in January of every second year thereafter” to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

1998—Subsec. (e)(1). Pub. L. 105-362 substituted “submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report” for “submit a report to Congress in January of each even-numbered year”.

1995—Subsec. (d). Pub. L. 104-66 struck out subsec. (d) which related to reports to Congress listing assistance provided by Government to railroad industry.

1984—Pub. L. 98-216, §2(1)(A)(i), substituted “Reports” for “Annual reports” in section catchline.

Subsec. (a). Pub. L. 98-216, §2(1)(A)(ii), struck out requirement that the report include a complete statement on the effectiveness of the United States Railway Association and the Consolidated Rail Corporation in carrying out the purposes of the Regional Rail Reorganization Act of 1973.

Subsecs. (d), (e). Pub. L. 98-216, §2(1)(A)(iii), added subsecs. (d) and (e).

Statutory Notes and Related Subsidiaries

ANNUAL REPORT

Pub. L. 117-58, div. A, title I, §11319, Nov. 15, 2021, 135 Stat. 545, provided that:

“(a) DEFINITION OF COVERED PROJECT.—In this section, the term ‘covered project’ means a project or activity carried out with funds provided by the Department [of Transportation], including a project carried out under title 23 or 49, United States Code—

“(1) that is more than 5 years behind schedule; or

“(2) for which the total amount spent on the project or activity is not less than \$1,000,000,000 more than the original cost estimate for the project or activity.

“(b) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], and annually thereafter, the Secretary [of Transportation] shall submit to Congress a report on covered projects of the

Department, which shall include, for each covered project—

“(1) a brief description of the covered project, including—

“(A) the purpose of the covered project;

“(B) each location in which the covered project is carried out;

“(C) the contract or award number of the covered project, if applicable;

“(D) the year in which the covered project was initiated;

“(E) the Federal share of the total cost of the covered project; and

“(F) each primary contractor, subcontractor, grant recipient, and subgrantee recipient of the covered project;

“(2) an explanation of any change to the original scope of the covered project, including by the addition or narrowing of the initial requirements of the covered project;

“(3) the original expected date for completion of the covered project;

“(4) the current expected date for completion of the covered project;

“(5) the original cost estimate for the covered project, as adjusted to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics;

“(6) the current cost estimate for the covered project, as adjusted to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics;

“(7) an explanation for a delay in completion or an increase in the original cost estimate for the covered project, including, where applicable, any impact of insufficient or delayed appropriations; and

“(8) the amount of and rationale for any award, incentive fee, or other type of bonus, if any, awarded for the covered project.”

RULEMAKING REPORT

Pub. L. 117–58, div. B, title IV, § 24210, Nov. 15, 2021, 135 Stat. 824, provided that:

“(a) DEFINITION OF COVERED RULEMAKING.—In this section, the term ‘covered rulemaking’ means a regulation or rulemaking that—

“(1) has not been finalized by the date on which the relevant notification is submitted under subsection (b); and

“(2) relates to—

“(A) section 30120A of title 49, United States Code;

“(B) section 30166(o) of title 49, United States Code;

“(C) section 30172 of title 49, United States Code;

“(D) section 32302(c) of title 49, United States Code;

“(E) a defect reporting requirement under section 32302(d) of title 49, United States Code;

“(F) subsections (b) and (c) of section 32304A of title 49, United States Code;

“(G) the tire pressure monitoring standards required under section 24115 of the FAST Act (49 U.S.C. 30123 note; Public Law 114–94);

“(H) the amendment made by section 24402 of the FAST Act (129 Stat. 1720; Public Law 114–94) to section 30120(g)(1) of title 49, United States Code;

“(I) the records retention rule required under section 24403 of the FAST Act (49 U.S.C. 30117 note; Public Law 114–94);

“(J) the amendments made by section 24405 of the FAST Act (Public Law 114–94; 129 Stat. 1721) to section 30114 of title 49, United States Code;

“(K) a defect and noncompliance notification required under—

“(i) section 24104 of the FAST Act (49 U.S.C. 30119 note; Public Law 114–94); or

“(ii) section 31301 of MAP–21 (49 U.S.C. 30166 note; Public Law 112–141);

“(L) a side impact or frontal impact test procedure for child restraint systems under section 31501 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

“(M) an upgrade to child restraint anchorage system usability requirements required under section 31502 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

“(N) the rear seat belt reminder system required under section 31503 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

“(O) a motorcoach rulemaking required under section 32703 of MAP–21 (49 U.S.C. 31136 note; Public Law 112–141); or

“(P) any rulemaking required under this Act [div. B of Pub. L. 117–58, see Tables for classification].

“(b) NOTIFICATION.—Not later than 180 days after the date of enactment of this Act (Nov. 15, 2021), and not less frequently than biannually thereafter until the applicable covered rulemaking is complete, the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a written notification that includes, with respect to each covered rulemaking—

“(1) for a covered rulemaking with a statutory deadline for completion—

“(A) an explanation of why the deadline was not met; and

“(B) an expected date of completion of the covered rulemaking; and

“(2) for a covered rulemaking without a statutory deadline for completion, an expected date of completion of the covered rulemaking.

“(c) ADDITIONAL CONTENTS.—A notification under subsection (b) shall include, for each applicable covered rulemaking—

“(1) an updated timeline;

“(2) a list of factors causing delays in the completion of the covered rulemaking; and

“(3) any other details associated with the status of the covered rulemaking.”

AVAILABILITY OF REPORTS

Pub. L. 114–94, div. A, title I, § 1434, Dec. 4, 2015, 129 Stat. 1430, provided that:

“(a) IN GENERAL.—The Secretary [of Transportation] shall make available to the public on the website of the Department any report required to be submitted by the Secretary to Congress after the date of enactment of this Act [Dec. 4, 2015].

“(b) DEADLINE.—Each report described in subsection (a) shall be made available on the website not later than 30 days after the report is submitted to Congress.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which reporting provisions contained in subsecs. (a) and (b) of this section and, as subsequently amended, subsec. (e) of this section, are listed, respectively, as the 11th item on page 133, the last item on page 132, and the 5th item on page 138), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

ANNUAL REPORT ON SAFETY ENFORCEMENT ACTIVITIES OF FEDERAL AVIATION ADMINISTRATION

Pub. L. 100–202, § 101(i) [title III, § 317(a)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–380, and Pub. L. 100–457, title III, § 317(a), Sept. 30, 1988, 102 Stat. 2148, which required Secretary of Transportation to transmit to Congress an annual report on Federal Aviation Administration's prior safety enforcement activities including staffing level comparisons, inspector experience and training schedules, criteria used to set annual work programs, annual inspection comparisons, statement of adequacy of internal management controls, status of regulatory changes, list of specific operational measures of effectiveness, schedule showing number of civil penalty cases closed, schedule showing number of enforcement

actions taken, and schedules showing aviation industry's safety record, were repealed and reenacted as section 44723 of this title by Pub. L. 103-272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1202, 1379.

§ 309. High-speed ground transportation

(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

(I) feasibility of guideway or track design and construction;

(II) safety and reliability;

(III) impact on the environment in comparison to other high-speed ground transportation technologies;

(IV) minimization of land use;

(V) effect on human factors related to high-speed ground transportation;

(VI) energy and power consumption and cost;

(VII) integration of high-speed ground transportation systems with other modes of transportation;

(VIII) actual and projected ridership; and
(IX) design of signaling, communications, and control systems.

(C) For the purposes of this paragraph, the term "eligible applicant" means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activi-

ties conducted pursuant to the authorization contained in paragraph (1).

(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

(A) an economic and financial analysis;

(B) a technical assessment; and

(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

(i) the current transportation practices and trends in each market; and

(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

(I) an assessment of the potential for a high-speed ground transportation technology export market;

(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

(3) The technical assessment referred to in paragraph (1)(B) shall include—

(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

(G) any other technical assessments the Secretary considers important for carrying out this section.

(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the "Policy").

(2) The Policy shall include—

(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.

(Added Pub. L. 102-240, title I, §1036(c)(1), Dec. 18, 1991, 105 Stat. 1982.)

Editorial Notes

REFERENCES IN TEXT

Section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsecs. (b)(2)(A) and (d)(3)(B), is section 1036(b) of Pub. L. 102-240, which is set out below.

The Stevenson-Wylder Technology Innovation Act of 1980, referred to in subsec. (c)(3), is Pub. L. 96-480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

Section 7 of the Rail Safety Improvement Act of 1988, referred to in subsec. (d)(3)(C), is section 7 of Pub. L. 100-342, which amended section 431 of Title 45, Railroads.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of Title 23, Highways.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

Pub. L. 102-240, title I, §1036(b), Dec. 18, 1991, 105 Stat. 1978, provided that:

“(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the ‘Assistant Secretary’). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the ‘Maglev Project Office’), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

“(2) PHASE ONE CONTRACTS.—

“(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

“(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer

than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

“(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant’s resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

“(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

“(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

“(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

“(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

“(4) PROTOTYPE.—

“(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

“(i) 1 member to be appointed by the Secretary,

“(ii) 1 member to be appointed by the Assistant Secretary,

“(iii) 3 members to be appointed by the Senate majority and minority leaders, and

“(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House, shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall re-

port to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

“(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of constructing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

“(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

“(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

“(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

“(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

“(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

“(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

“(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

“(vii) The project shall have at least 1 switch.

“(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

“(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

“(5) LICENSING.—

“(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

“(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

“(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

“(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term ‘eligible applicant’ means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.”

§ 310. Aligning Federal environmental reviews

(a) COORDINATED AND CONCURRENT ENVIRONMENTAL REVIEWS.—Not later than 1 year after the date of enactment of this section, the Department of Transportation, in coordination with the heads of Federal agencies likely to have substantive review or approval responsibilities under Federal law, shall develop a coordinated and concurrent environmental review and permitting process for transportation projects when initiating an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (in this section referred to as “NEPA”).

(b) CONTENTS.—The coordinated and concurrent environmental review and permitting process developed under subsection (a) shall—

(1) ensure that the Department of Transportation and agencies of jurisdiction possess sufficient information early in the review process to determine a statement of a transportation project's purpose and need and range of alternatives for analysis that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project;

(2) achieve early concurrence or issue resolution during the NEPA scoping process on the Department of Transportation's statement of a project's purpose and need, and during development of the environmental impact statement on the range of alternatives for analysis, that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project absent circumstances that require reconsideration in order to meet an agency of jurisdiction's obligations under a statute or Executive order; and

(3) achieve concurrence or issue resolution in an expedited manner if circumstances arise that require a reconsideration of the purpose and need or range of alternatives considered during any Federal agency's environmental or permitting review in order to meet an agency of jurisdiction's obligations under a statute or Executive order.

(c) ENVIRONMENTAL CHECKLIST.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation and Federal agencies of jurisdiction likely to have substantive review or approval responsibilities on transportation projects shall jointly develop a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of a proposed project.

(2) PURPOSE.—The purpose of the checklist shall be to—

(A) identify agencies of jurisdiction and cooperating agencies;

(B) develop the information needed for the purpose and need and alternatives for analysis; and

(C) improve interagency collaboration to help expedite the permitting process for the lead agency and agencies of jurisdiction.

(d) **INTERAGENCY COLLABORATION.**—

(1) **IN GENERAL.**—Consistent with Federal environmental statutes, the Secretary of Transportation shall facilitate annual interagency collaboration sessions at the appropriate jurisdictional level to coordinate business plans and facilitate coordination of workload planning and workforce management.

(2) **PURPOSE OF COLLABORATION SESSIONS.**—The interagency collaboration sessions shall ensure that agency staff is—

- (A) fully engaged;
- (B) utilizing the flexibility of existing regulations, policies, and guidance; and
- (C) identifying additional actions to facilitate high quality, efficient, and targeted environmental reviews and permitting decisions.

(3) **FOCUS OF COLLABORATION SESSIONS.**—The interagency collaboration sessions, and the interagency collaborations generated by the sessions, shall focus on methods to—

- (A) work with State and local transportation entities to improve project planning, siting, and application quality; and
- (B) consult and coordinate with relevant stakeholders and Federal, tribal, State, and local representatives early in permitting processes.

(4) **CONSULTATION.**—The interagency collaboration sessions shall include a consultation with groups or individuals representing State, tribal, and local governments that are engaged in the infrastructure permitting process.

(e) **PERFORMANCE MEASUREMENT.**—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with relevant Federal agencies, shall establish a program to measure and report on progress toward aligning Federal reviews and reducing permitting and project delivery time as outlined in this section.

(f) **REPORTS.**—

(1) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this section and biennially thereafter, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make publicly available on the Department of Transportation website, a report that describes—

- (A) progress in aligning Federal environmental reviews under this section; and
- (B) the impact this section has had on accelerating the environmental review and permitting process.

(2) **INSPECTOR GENERAL REPORT.**—Not later than 3 years after the date of enactment of this section, the Inspector General of the Department of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(A) progress in aligning Federal environmental reviews under this section; and

(B) the impact this section has had on accelerating the environmental review and permitting process.

(g) **SAVINGS PROVISION.**—This section shall not apply to any project subject to section 139 of title 23.

(Added Pub. L. 114-94, div. A, title I, §1313(a), Dec. 4, 2015, 129 Stat. 1400; amended Pub. L. 115-420, §3, Jan. 3, 2019, 132 Stat. 5444.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a), (c)(1), (e), and (f)(1), (2), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2019—Subsec. (f)(1). Pub. L. 115-420 inserted “, and make publicly available on the Department of Transportation website,” after “House of Representatives” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§ 311. Congressional notification requirements

(a) **IN GENERAL.**—Except as provided in subsection (b) or as expressly provided in another provision of law, the Secretary of Transportation shall provide to the appropriate committees of Congress notice of an announcement concerning a covered project at least 3 full business days before the announcement is made by the Department.

(b) **EMERGENCY PROGRAM.**—With respect to an allocation of funds under section 125 of title 23, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate notice of the allocation—

- (1) at least 3 full business days before the issuance of the allocation; or
- (2) concurrently with the issuance of the allocation, if the allocation is made using the quick release process of the Department (or any successor process).

(c) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

- (A) the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) COVERED PROJECT.—The term “covered project” means a project competitively selected by the Department to receive a discretionary grant award, letter of intent, loan commitment, loan guarantee commitment, or line of credit commitment in an amount equal to or greater than \$750,000.

(3) DEPARTMENT.—The term “Department” means the Department of Transportation, including the modal administrations of the Department.

(Added Pub. L. 114-322, title IV, § 5001(a), Dec. 16, 2016, 130 Stat. 1884.)

§ 312. Alternative timing system

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Transportation shall provide for the establishment, sustainment, and operation of a land-based, resilient, and reliable alternative timing system—

(1) to reduce critical dependencies and provide a complement to and backup for the timing component of the Global Positioning System (referred to in this section as “GPS”); and

(2) to ensure the availability of uncorrupted and non-degraded timing signals for military and civilian users in the event that GPS timing signals are corrupted, degraded, unreliable, or otherwise unavailable.

(b) ESTABLISHMENT OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the National Timing Resilience and Security Act of 2018, the Secretary of Transportation shall establish requirements for the procurement of the system required by subsection (a) as a complement to and backup for the timing component of GPS in accordance with the timing requirements study required by section 1618 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2595).

(2) REQUIREMENTS.—The Secretary of Transportation shall ensure, to the maximum extent practicable, that the system established under subsection (a) will—

(A) be wireless;
(B) be terrestrial;
(C) provide wide-area coverage;
(D) be synchronized with coordinated universal time;

(E) be resilient and extremely difficult to disrupt or degrade;

(F) be able to penetrate underground and inside buildings;

(G) be capable of deployment to remote locations;

(H) be developed, constructed, and operated incorporating applicable private sector expertise;

(I) work in concert with and complement any other similar positioning, navigation, and timing systems, including enhanced long-range navigation systems and Nationwide Differential GPS systems;

(J) be available for use by Federal and non-Federal government agencies for public purposes at no net cost to the Federal Government within 10 years of initiation of operation;

(K) be capable of adaptation and expansion to provide position and navigation capabilities;

(L) incorporate the recommendations from any GPS back-up demonstration program initiated and completed by the Secretary, in coordination with other Federal agencies, before the date specified in subsection (c)(1); and

(M) incorporate such other elements as the Secretary considers appropriate.

(c) IMPLEMENTATION PLAN.—

(1) PLAN REQUIRED.—Not later than 180 days after the date of enactment of the National Timing Resilience and Security Act of 2018, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report setting forth the following:

(A) A plan to develop, construct, and operate the system required by subsection (a).

(B) A description and assessment of the advantages of a system to provide a follow-on complementary and backup positioning and navigation capability to the timing component of GPS.

(2) DEADLINE FOR COMMENCEMENT OF OPERATION.—The system required by subsection (a) shall be in operation by not later than 2 years after the date of enactment of the National Timing Resilience and Security Act of 2018.

(3) MINIMUM DURATION OF OPERATIONAL CAPABILITY.—The system required by subsection (a) shall be designed to be fully operational for not less than 20 years.

(d) LORAN FACILITIES.—

(1) IN GENERAL.—If the Secretary of Transportation determines that any LORAN infrastructure, including the underlying real property and any spectrum associated with LORAN, in the possession of the Coast Guard is required by the Department of Transportation for the purpose of establishing the system required by subsection (a), the Commandant shall transfer such property, spectrum, and equipment to the Secretary.

(2) CERCLA NOT AFFECTED.—This subsection shall not be construed to limit the application of or otherwise affect section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) with respect to the Federal Government facilities described in paragraph (1).

(e) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary of Transportation may enter into a cooperative agreement (as that term is described in section 6305 of title 31) with an entity upon such terms and conditions as the Secretary of Transportation determines will fulfill the purpose and requirements of this section and be in the public interest.

(2) **REQUIREMENTS.**—The cooperative agreement under paragraph (1) shall, at a minimum, require the Secretary of Transportation to—

(A) authorize the entity to sell timing and other services to commercial and non-commercial third parties, subject to any national security requirements determined by the Secretary, in consultation with the Secretary of Defense;

(B) require the entity to develop, construct, and operate at private expense the backup timing system in accordance with this section;

(C) allow the entity to make any investments in technologies necessary over the life of such agreement to meet future requirements for advanced timing resilience and technologies;

(D) require the entity to share 25 percent of the gross proceeds received by the entity from the sale of timing services to third parties with the Secretary for at least 10 years after the date upon which the Secretary enters into the cooperative agreement;

(E) require the entity—

(i) to assume all financial risk for the completion and operational capability of the system, after the Secretary provides any LORAN facilities necessary for the system under subsection (d), if required for the alternative timing system; and

(ii) to furnish performance and payment bonds in connection with the system in a reasonable amount as determined by the Secretary; and

(F) require the entity to make any investments in technologies necessary over the life of the agreement to meet future requirements for advanced timing resiliency.

(3) **COMPETITION REQUIRED.**—The Secretary shall use competitive procedures similar to those authorized under section 2667 of title 10 in selecting an entity to enter into a cooperative agreement pursuant to this subsection.

(4) **AUTHORIZATION TO PURCHASE SERVICES.**—The Secretary may not purchase timing system services from the entity for use by the Department of Transportation or for provision to other Federal and non-Federal governmental agencies until the system achieves operational status, and then only if the necessary funds for such purchases are provided for in subsequent yearly appropriations acts made available to the Secretary for each and every year in which such purchases are made.

(5) **DETERMINATION REQUIREMENT.**—The Secretary may not enter into a cooperative agreement under this subsection unless the Secretary determines that the cooperative agreement is in the best financial interest of the Federal Government. The Secretary shall notify the Committee on Committee on¹ Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such determination not later than 30 days after the date of the determination.

(6) **DEFINITION.**—In this subsection the term “entity” means a non-Federal entity with the

demonstrated technical expertise and requisite administrative and financial resources to meet any terms and conditions established by the Secretary for purposes of this subsection.

(Added Pub. L. 115-282, title V, §514(b), Dec. 4, 2018, 132 Stat. 4276; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8507(d)(2), Jan. 1, 2021, 134 Stat. 4754.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the National Timing Resilience and Security Act of 2018, referred to in subsecs. (b)(1) and (c)(1), (2), is the date of enactment of section 514 of Pub. L. 115-282, which was approved Dec. 4, 2018.

Section 1618 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (b)(1), is section 1618 of Pub. L. 114-328, div. A, title XVI, Dec. 23, 2016, 130 Stat. 2595, which is not classified to the Code.

AMENDMENTS

2021—Pub. L. 116-283 made technical correction to directory language of Pub. L. 115-282, §514(b), which enacted this section.

EFFECTIVE DATE OF 2021 AMENDMENT

Section 8507(d) of div. G of Pub. L. 116-283 effective as if included in Pub. L. 115-282, see section 8507(d)(7) of Pub. L. 116-283, set out as a note under section 1226 of Title 33, Navigation and Navigable Waters.

Statutory Notes and Related Subsidiaries

SHORT TITLE

For short title of section 514 of Pub. L. 115-282, which enacted this section, as the “National Timing Resilience and Security Act of 2018”, see section 514(a) of Pub. L. 115-282, set out as a Short Title of 2018 Amendment note under section 101 of this title.

§ 313. Nontraditional and Emerging Transportation Technology Council

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the “Secretary”) shall establish a council, to be known as the “Nontraditional and Emerging Transportation Technology Council” (referred to in this section as the “Council”), to address coordination on emerging technology issues across all modes of transportation.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Council shall be composed of—

(A) the Secretary, who shall serve as an ex officio member of the Council;

(B) the Deputy Secretary of Transportation;

(C) the Under Secretary of Transportation for Policy;

(D) the Assistant Secretary for Research and Technology of the Department of Transportation;

(E) the Assistant Secretary for Budget and Programs of the Department of Transportation;

(F) the General Counsel of the Department of Transportation;

(G) the Chief Information Officer of the Department of Transportation;

¹ So in original.

(H) the Administrator of the Federal Aviation Administration;

(I) the Administrator of the Federal Highway Administration;

(J) the Administrator of the Federal Motor Carrier Safety Administration;

(K) the Administrator of the Federal Railroad Administration;

(L) the Administrator of the Federal Transit Administration;

(M) the Administrator of the Maritime Administration;

(N) the Administrator of the National Highway Traffic Safety Administration;

(O) the Administrator of the Pipeline and Hazardous Materials Safety Administration; and

(P) any other official of the Department of Transportation, as determined by the Secretary.

(2) CHAIR AND VICE CHAIR.—

(A) CHAIR.—The Deputy Secretary of Transportation (or a designee) shall serve as Chair of the Council.

(B) VICE CHAIR.—The Under Secretary of Transportation for Policy (or a designee) shall serve as Vice Chair of the Council.

(c) DUTIES.—The Council shall—

(1) identify and resolve jurisdictional and regulatory gaps or inconsistencies associated with nontraditional and emerging transportation technologies, modes, or projects pending or brought before the Department of Transportation to reduce, to the maximum extent practicable, impediments to the prompt and safe deployment of new and innovative transportation technology, including with respect to—

(A) safety oversight;

(B) environmental review; and

(C) funding and financing issues;

(2) coordinate the response of the Department of Transportation to nontraditional and emerging transportation technology projects;

(3) engage with stakeholders in nontraditional and emerging transportation technology projects; and

(4) develop and establish Department of Transportation-wide processes, solutions, and best practices for identifying and managing nontraditional and emerging transportation technology projects.

(d) BEST PRACTICES.—Not later than 1 year after the date of enactment of this section, the Council shall—

(1) publish initial guidelines to achieve the purposes described in subsection (c)(4); and

(2) promote each modal administration within the Department of Transportation to further test and support the advancement of nontraditional and emerging transportation technologies not specifically considered by the Council.

(e) SUPPORT.—The Office of the Secretary shall provide support for the Council.

(f) MEETINGS.—The Council shall meet not less frequently than 4 times per year, at the call of the Chair.

(g) LEAD MODAL ADMINISTRATION.—For each nontraditional or emerging transportation tech-

nology, mode, or project associated with a jurisdictional or regulatory gap or inconsistency identified under subsection (c)(1), the Chair of the Council shall—

(1) designate a lead modal administration of the Department of Transportation for review of the technology, mode, or project; and

(2) arrange for the detailing of staff between modal administrations or offices of the Department of Transportation as needed to maximize the sharing of experience and expertise.

(h) TRANSPARENCY.—Not later than 1 year after the date of establishment of the Council, and not less frequently than annually thereafter until December 31, 2026, the Council shall post on a publicly accessible website a report describing the activities of the Council during the preceding calendar year.

(Added Pub. L. 117–58, div. B, title V, § 25008(a), Nov. 15, 2021, 135 Stat. 850.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a) and (d), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

SUBCHAPTER II—ADMINISTRATIVE

§ 321. Definitions

In this subchapter, “aeronautics”, “air commerce”, and “air navigation facility” have the same meanings given those terms in section 40102(a) of this title.

(Pub. L. 97–449, § 1(b), Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98–216, § 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(8), July 5, 1994, 108 Stat. 1376; Pub. L. 103–429, § 6(2), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES

PUB. L. 97–449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
321	(no source).	

A number of the source provisions of the subchapter are taken from 49:ch. 20. The text of 49:ch. 20 contains general definitions, some of which are used in those source provisions. The section includes those definitions from 49:ch. 20 that are used in the source provisions included in the subchapter.

PUB. L. 103–429

This makes a clarifying amendment to 49:321.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103–429 struck out “, respectively” after “of this title”.

Pub. L. 103–272 substituted “section 40102(a) of this title” for “section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))”.

1984—Pub. L. 98–216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, § 9, Oct. 31, 1994, 108 Stat. 4391, provided that: “The amendments made by sections